

**FREE TRADE AGREEMENTS: INDIA AND THE WORLD (2023) by V.S. Seshadri. Published by Oxford University Press. Pp. 384. Price 1495/- ISBN: 9780198875918**

## I. Introduction

In the ever-evolving landscape of international trade, the role of strategic Free Trade Agreements (FTAs) is becoming increasingly vital and in the past two decades, FTAs have proliferated across the globe.<sup>1</sup> As per the World Trade Organization (WTO), 360 FTAs<sup>2</sup> are currently in force.<sup>3</sup> A Free Trade Agreement (FTA) is basically an international treaty between two or more countries through which the partner countries agree on specific terms and conditions that affect trade<sup>4</sup> between them.<sup>5</sup> These terms and conditions can include reduced or pre-determined tariffs, greater market access, stronger IP protection, provisions for Rules of Origin (ROO), etc.<sup>6</sup> An FTA is considered as an exception to the Most Favored Nation (MFN) principle of the WTO Agreement.<sup>7</sup> However, they still have to comply with the governing WTO Rules.<sup>8</sup> In the last two decades, these agreements have

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- 1 Daniel Yuichi Kono, "Are Free Trade Areas Good for Multilateralism? Evidence from the European Free Trade Association" 46(4) *International Studies Quarterly* 507 (2002).
  - 2 This includes bilateral, multilateral, regional and mega-regional FTAs.
  - 3 WTO, "Regional Trade Agreement", available at: <https://www.wto.org/english/tratop/regione/regione.htm> (last visited on Sept. 06, 2023).
  - 4 FTAs can be both for trade in goods as well as trade in services. See International Trade Administration, "Free Trade Agreement Overview", available at: <https://www.trade.gov/free-trade-agreement-overview> (last visited on Sept. 06, 2023).
  - 5 International Trade Administration, "Free Trade Agreement Overview", available at: <https://www.trade.gov/free-trade-agreement-overview> (last visited on Sept. 06, 2023).
  - 6 See generally, Mahindra Siriwardana, "An Analysis of the Impact of Indo-Lanka Free Trade Agreement and its Implications for Free Trade in South Asia" 19(3) *Journal of Economic Integration* 568 (2004); Blayne Haggart, "Modern Free Trade Agreements are not About Free Trade" *New Thinking on Innovation* 15 (Jan. 1, 2017); Dani Rodrick, "What Do Trade Agreements Really Do?" 32(2) *The Journal of Economic Perspectives* 73 (2018); Kati Souminen, "The Changing Anatomy of Regional Trade Agreements in East Asia" 9(1) *Journal of East Asian Studies* 29 (2009).
  - 7 See The General Agreement on Tariffs and Trade, 1947 (GATT 1947), art. XXIV; See also WTO, "Principles of the Trading System", available at: [https://www.wto.org/english/thewto\\_e/whatis\\_e/tif\\_e/fact2\\_e.htm](https://www.wto.org/english/thewto_e/whatis_e/tif_e/fact2_e.htm) (last visited on Sept. 06, 2023); Congressional Research Service, "Free Trade Agreements and the WTO Exceptions" (July 2, 2008); "Chapter 1: Most-Favored-Nation Treatment Principle", available at: [https://www.meti.go.jp/english/report/data/2015WTO/02\\_01.pdf](https://www.meti.go.jp/english/report/data/2015WTO/02_01.pdf) (last visited on Sept. 06, 2023).
  - 8 Rules laid down by Committee on Regional Trade Agreements especially the Transparency Mechanism; See WTO, "Regional Trade Agreements", available at: [https://www.wto.org/english/tratop\\_e/region\\_e/region\\_e.htm](https://www.wto.org/english/tratop_e/region_e/region_e.htm) (last visited on Sept. 06, 2023); Department of Foreign Affairs and Trade, Government of Australia, "WTO and Free Trade Agreements", available at: <https://www.dfat.gov.au/trade/organisations/wto/Pages/the-world-trade-organization-wto-free-trade-agreements> (last visited on Sept. 06, 2023).

expanded significantly in their scope and coverage, encompassing not just market access but also addressing issues within national borders, far beyond the scope and mandate of WTO.<sup>9</sup> Further, with the emergence of prominent Mega Regional FTAs such as the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP)<sup>10</sup> and Regional Comprehensive Economic Partnership (RCEP),<sup>11</sup> FTAs are now considered as favorite vehicles to achieve trade policy goals.<sup>12</sup> Many countries are also curating their own blueprints for FTAs based on their experiences, perceptions, and strategic and security interests.<sup>13</sup>

Following this global geo-political trade trend, India has also been experimenting with FTAs.<sup>14</sup> India entered into its first FTA with Sri Lanka in 2000,<sup>15</sup> and since then, it has now become a signatory to 13 Free Trade Agreements.<sup>16</sup> However, there is a widely held perception in India that, as compared to its partnering countries, India has not sufficiently benefitted from its existing FTAs.<sup>17</sup> Hence, an in-depth analysis of the problems and the factors hindering India's realization of the potential benefits from its FTAs is critical. *Have the FTAs delivered for India? What should be the way ahead for India? Should it even enter into more FTAs? What steps can India take to enhance its benefits from FTAs?* These questions become significant considering the

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- 9 See generally Henrick Horn, Petros C. Mavroidis, *et. al.*, *Beyond the WTO? An Anatomy of EU and US Preferential Trade Agreements* (2009); Asian Development Bank, *How to Design, Negotiate, and Implement a Free Trade Agreement in Asia 4* (2008); Masahiro Kawai & Ganeshan Wignaraja, "Asian FTAs: Trends, Prospects, and Challenges" *ADB Economics Working Paper Series No. 226* (2010); C. O'Neal Taylor, "Of Free Trade Agreements and Models" 19(3) *Indiana International and Comparative Law Review* 570 (2009).
- 10 Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP) (2018).
- 11 Regional Comprehensive Economic Partnership (RCEP) (2020).
- 12 Arvind Shukla, "Free Trade Agreements of India: A Policy Analysis" *Indian Institute of Management Bangalore* (2021).
- 13 C. O'Neal Taylor, "Of Free Trade Agreements and Models" 19(3) *Indiana International and Comparative Law Review* 570 (2009).
- 14 Arvind Shukla, *supra* note 12.
- 15 The India-Sri Lanka Free Trade Agreement (ISFTA) (2000).
- 16 Press Information Bureau, "India has signed 13 Regional Trade Agreements (RTAs)/ Free Trade Agreements (FTAs) with Various Countries/Regions", available at: <https://pib.gov.in/Pressreleaseshare.aspx?PRID=1843902> (last visited on Sept. 06, 2023); See also Ministry of Commerce & Industry, "FTAs", available at: <https://pib.gov.in/PressReleasePage.aspx?PRID=1814151> (last visited on Sept. 06, 2023).
- 17 See e.g., Arvind Shukla, "Free Trade Agreements of India: A Policy Analysis" *Indian Institute of Management Bangalore* (2021); MVIRDC World Trade Centre Mumbai, "India and Free Trade Agreements: Opportunities and Challenges" (2018); Rohit Singh, "India's Free Trade Agreements (FTAs): Dynamics and Diagnostics of Trade Prospects" (2018); Divesh Pandey & Meera Unnikrishnan, "Free Trade Agreements (FTAs) by India: Review and Implications for Future" (2023).

fact that India has signed two more FTAs in 2022 with UAE<sup>18</sup> and Australia,<sup>19</sup> and the ongoing negotiations with the United Kingdom has reached an advanced stage, with both the countries expecting to sign the FTA soon.<sup>20</sup>

In the backdrop of this intricate web of intertwined issues and concerns regarding FTAs, the publication of the book “*Free Trade Agreements: India and the World*”<sup>21</sup> authored by Dr. V.S. Seshadri, a distinguished author and expert in international economics,<sup>22</sup> is both timely and of immense significance. In this book, Dr. Seshadri provides an authoritative, compelling, and thorough exploration of India’s experience with the FTAs. This book is intended to not only systematically enhance our understanding of FTAs but also to provide an authoritative account of the vast changes taking place in the FTA landscape globally. The book tries to capture various aspects of FTAs by keeping India’s position, its relatively limited participation in the FTAs, and its future course in mind. Dr. Seshadri has curated the present book by drawing upon his vast experience as a diplomat, trade negotiator and trade administrator.

## II. Structure and Overview of the Book

The present book is inspired by the idea to study and present, in a single volume, the global evolution of FTAs and their utilization by India.<sup>23</sup> In this pursuit, Dr.

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18 The Comprehensive Economic Partnership Agreement (CEPA) (2022).

19 Australia-India Economic Cooperation and Trade Agreement (ECTA) (2022).

20 See Melisaa Cyrill, “India, UK FTA Negotiations: Key Updates” *India Briefing*, Sept. 04, 2023, available at: <https://www.india-briefing.com/news/india-uk-fta-25699.html/> (last visited on Sept. 06, 2023); Saurabh Sinha, “FTA with UK likely by Diwali, talks on with many other countries: Piyush Goyal”, *The Times of India*, Sept. 06, 2022.

21 V.S. Seshadri, *Free Trade Agreements: India and the World* (Oxford University Press, Oxford, 2023).

22 Dr. V.S. Seshadri, I.F.S. (Retd.), is a Senior Fellow for International Trade at the Delhi Policy Group. He is a former Ambassador, retired from the Indian Foreign Service, and has wide experience in dealing with trade issues. He has served as the Joint Secretary (WTO) for the Ministry of Commerce from 1993-2003 (during the Doha Round negotiations). He has served as the First Secretary (Trade Policy) in India’s diplomatic mission to the European Community in Brussels from 1986-89. He has served as the Minister (Commerce) in the Embassy in Washington DC from 2003-2006 (during this time the US was in an active negotiation mode for concluding FTAs with several trade partners). Further, upon retirement he has served as the Senior Advisor and then as Vice Chairman (2013-17) of the Research and Information System of Developing Countries (RIS) where he has taken appraisals of implementation of India’s FTAs with the Republic of Korea, Japan & Singapore. See V.S. Seshadri, *Free Trade Agreements: India and the World* preface xiii (Oxford University Press, Oxford, 2023). Dr. Seshadri has contributed a number of research articles and discussion papers on trade and international economics issues. See Dr. V.S. Seshadri, I.F.S. (Retd.), <https://www.delhipolicygroup.org/faculty/dr-vs-seshadri-ifs-retd.html> (last visited on Sept. 06, 2023).

23 *Supra* note 21, at xiv.

Seshadri has expertly dissected the subject matter of FTAs into seven (7) carefully curated chapters. Each chapter explores a unique facet of the journey through the world of free trade agreements. The following section provides a concise summary of each chapter. This section will serve as a guide for the reader to the rich content that is contained in the book.

In the *opening chapter*, Dr. Seshadri lays the groundwork by surveying the historical evolution of the FTAs globally. This chapter studies the evolution of FTAs in three waves<sup>24</sup> and analyses how these agreements have become more profound and broader in their scope. It also discusses how the contemporary mega-regional FTAs<sup>25</sup> are going beyond WTO rules. One of the critical discussions in this chapter, which is particularly relevant for law students, is with relation to the Legal Framework of the WTO regarding FTAs. FTAs are legal instruments, and hence, they can come in conflict with the Most Favored Nation (MFN) principle, which is a cornerstone of WTO. In such a context, how an FTA is conducted, which WTO norms countries have to comply with, and what are the limitations of FTAs have been explained lucidly and comprehensively in this chapter.

In the *Second and Third Chapters*, Dr. Seshadri has provided rich insights into the Indian experience regarding FTAs. The second chapter, titled *India's Free Trade Arrangements*,<sup>26</sup> provides a thorough analysis of India's past FTAs. In this chapter, Dr. Seshadri has carefully profiled and compared the scope and depth of different FTAs that India has entered into and charted out their salient features. It also

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24 “The first wave from the 1950s to early 1980s led mainly by Western Europe, the second wave from the mid-1980s to late 1990s when both US and Europe were actively involved in FTA-making, and the third wave in the 2000s when leading trading Asian nations also joined Europe and US that gave regionalism further momentum. Each wave was not just limited to the leading countries themselves but had a demonstration or knock-on effect promoting other countries to take similar initiatives”, *Supra* note 21 at 9; *See also* World Trade Organization, *World Trade Report 2011, The WTO and Preferential Trade Agreements: From Co-existence to Coherence* (2011).

25 Mega-Regional FTAs have been defined as “deep integration partnerships in the form of FTAs between countries or regions with a major share of world trade and FDI, and in which two or more of the parties serve as hubs in global value chains/global production networks (i.e., the US, the EU (Germany), Japan, China)”; Eszter Luacs and Katalin Volgyi, “Mega-FTAs in the Asia-Pacific Region”, 17(1) *European Journal of East Asian Studies* 158 (2018). Examples of such Mega FTAs include Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP) (2018); Regional Comprehensive Economic Partnership (RCEP) (2020), etc. *See e.g.*, Badri Narayanan G., Dan Ciuriak, *et. al.*, “Quantifying the Mega-Regional Trade Agreements: A Review of the Models” *International Institute for Sustainable Development* (April 2015); Thomas Hirst, “What are Mega-Regional Trade Agreements”, *World Economic Forum*, available at: <https://www.weforum.org/agenda/2014/07/trade-what-are-megaregionals/> (last visited on Sept. 08, 2023).

26 *Supra* note 21 at 40-99.

provides a comparison of certain provisions such as market access commitments in goods, services and investment, Rules of Origin (ROO), trade remedies, technical standards, regulations, dispute settlement, etc., across India's various FTAs. The Third Chapter of the book, titled *Impact Assessment of Three Indian FTAs*,<sup>27</sup> is a continuation of the previous chapter. It takes the discussion in the previous chapter further by providing a detailed analysis of the implementation, impact and issues relating to three of India's comprehensive FTAs with the Republic of Korea, Japan, and Singapore, namely IKCEPA,<sup>28</sup> IJCEPA<sup>29</sup> and ISCECA,<sup>30</sup> respectively. The analysis is based on the studies conducted by Dr. Seshadri from 2015-17 while being a member of the Research and Information System for Developed Countries (RIS) and the ASEAN-India Centre. It offers rich and comprehensive firsthand insights into the working of these FTAs.

In the *next three chapters*, Dr. Seshadri has shifted his focus to the international level and has delved into the global evolution of FTAs with three specific examples. The first one is a case study contained in Chapter Four. In this chapter, Dr. Seshadri has taken up Republic of Korea (South Korea) as a case study and has examined how over the years, South Korea has evolved the rules governing merchandise trade in the FTAs entered by it. This chapter has explored the evolution of Korea's rich and comprehensive FTAs portfolio. Its current bilateral FTA partners, apart from India, include the EU, the United States, China and ASEAN. Studying the evolution of South Korea's FTAs provides an in-depth understanding of the different templates and strategies regarding FTAs it has developed over the years.

In the *next two chapters*, Dr. Seshadri has focused on studying two major FTAs namely the Comprehensive and Progressive Transpacific Partnership (CPTPP)<sup>31</sup> and the Regional Comprehensive Economic Partnership (RCEP).<sup>32</sup> The Fifth chapter examines the various provisions of CPTPP. Several of these provisions go much beyond the existing WTO rules and mandate. For instance, CPTPP not only contains

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27 *Id.* at 101-165.

28 India-Republic of Korea Comprehensive Economic Partnership Agreement (IKCEPA) (2010).

29 India-Japan Comprehensive Economic Partnership Agreement (IJCEPA) (2010).

30 India-Singapore Comprehensive Economic Cooperation Agreement (ISCECA) (2005).

31 Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP) (2018) (It is a recent mega international FTA considered to be of a high standard. Despite it being a somewhat truncated Transpacific Partnership (TPP) is considered to have set even higher benchmarks for future FTAs).

32 Regional Comprehensive Economic Partnership (RCEP) (2020) (It is the World's Largest Free Trade Agreement).

33 Comprehensive and Progressive Agreement for Trans-Pacific Partnership, Chapter 19 (2018).

provisions related to labour<sup>33</sup> and environment<sup>34</sup> but these issues have also been made a subject matter of dispute resolution. In the Sixth Chapter, Dr. Seshadri has traced the evolution and framing of the Regional Comprehensive Economic Partnership (RCEP) and analyzed its various chapters. This chapter also makes comparisons between the RCEP and CPTPP. Both these treaties have several common signatories.<sup>35</sup> In the concluding part of this chapter, Dr. Seshadri has explored and analyzed the possible reasons as to why India decided to pull out of the RCEP negotiations at an advance stage in 2019.

In the *concluding seventh chapter* titled *The Way Forward for India*,<sup>36</sup> Dr. Seshadri has charted out a future course for India. This chapter, firstly, seeks to better understand the impact assessments from earlier FTAs with the aim to answer the broader questions, such as *Should India be pursuing negotiations for further FTAs and whether the past FTAs could have been negotiated in a better way?* It examines the key features of the FTAs that India has recently concluded with UAE and Australia. It also highlights the crucial aspects that India should focus on to enhance its market access opportunities by negotiating more FTAs but with well-chosen FTA Partners. Furthermore, the author also underscores the critical factors that should be taken into account in taking forward any ongoing or future FTA negotiations. These key aspects include discussion on provisions related to market access, rules of origin, trade remedies, digital trade, government procurement, and intellectual property, etc. Lastly, in this chapter, Dr. Seshadri provides a fivefold plan to strengthen the monitoring and implementation of FTAs once they are concluded. Throughout these seven chapters, readers are bound to develop a deep understanding of the challenges and opportunities that lie before India in its involvement with the FTAs.

### III. A Brief Insight into the Few Unique Sections of the Book

This section focuses on the two unique, engaging, and significant parts of the book.<sup>37</sup> The first is chapter 4, titled *Republic of Korea and Its FTAs*.<sup>38</sup> As mentioned in the previous section, this chapter examines the FTAs of the Republic of Korea

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34 *Id.* at ch. 20.

35 The common signatories include Australia, Brunei, Japan, Malaysia, New Zealand, Singapore and Vietnam; See Jeffrey J. Schott, “Which Countries are in the CPTPP and RCEP trade agreements and which want in”, *available at*: <https://www.piie.com/research/piie-charts/which-countries-are-cptpp-and-rcep-trade-agreements-and-which-want> (last visited on Sept. 06, 2023).

36 *Supra* note 21 at 313.

37 The book contains several remarkable and unique features that are significant in their own respect, but for brevity only these two sections have been taken up for discussion.

38 *Supra* note 21 at 168-221.

as a case study.<sup>39</sup> South Korea is an unusual choice when undertaking a comparative study, as generally Indian scholars prefer the UK, USA, Singapore, Australia, New Zealand and other common law countries for a case study. As explained by the author, South Korea has been chosen because it has a vibrant and diverse FTA portfolio (having concluded around 18 FTAs covering 58 countries, including India and almost all its trading partners).<sup>40</sup> Dr. Seshadri analyses the evolution of South Korea's FTA Network in three phases (First phase: 1998-2004, Second Phase: 2004-2012, Third Phase: 2013-present). The case study of South Korea's FTAs in this chapter is significant for certain elements that it brings out in FTA making, such as the need for room for creativity in structuring market access concessions, the drive for a first mover advantage, the attention given by Korea to compensate what was seen as a potentially losing sector from its FTAs, the agriculture sector, and how geopolitical considerations matter. The discussion on Rules of Origin (ROO),<sup>41</sup> its compliance and certification mechanism, safeguard clauses<sup>42</sup> and other Trade remedy provisions<sup>43</sup> will be of particular interest to diplomats, agreement drafters, and law students. India can draw several lessons from the comprehensive Korean strategy regarding FTAs, such as preserving and promoting trade with principal partners, showing flexibility to accept FTA templates of its partners, and trying to gain early mover advantage wherever possible.

One of the other most important discussions of the book is contained in its seventh chapter, *The Way Forward for India*. In this chapter, Dr. Seshadri has outlined a five-fold plan to monitor and implement FTAs upon conclusion.<sup>44</sup> With an expanding FTA portfolio, an effective implementation strategy will undoubtedly play a vital role for India. To this extent Dr. Seshadri has expressed the necessity for action on the following five key fronts viz: (i) Familiarization with the provisions of any new FTAs; (ii) Devising and Implementing a companion export and investment strategy for the new FTA Partners; (iii) Monitoring of FTA Utilization; (iv) Making full use of the FTA provisions; and (v) Actions that can be taken by India's Diplomatic Missions in the FTA Partners and other countries. In enunciating this five-fold action plan, Dr. Seshadri has utilized his tremendous experience as a diplomat and international trade expert. For instance, in the first step, i.e., to create

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39 This chapter assumed significance, in part, because the chapter was included by author, boldly, despite the doubts expressed by the reviewers about the synchronization of the chapter with the overall thrust of the book.

40 *Supra* note 21 at 212.

41 *Supra* note 21 at 189.

42 *Id.* at 200.

43 *Id.* at 196.

44 *Id.* at 348.

“Familiarization with the provisions of any new FTAs”,<sup>45</sup> – Dr. Seshadri has emphasized that this not only means making the legally worded document available on the official website along with a few FAQs (which is typically the case with official government websites in India) but rather goes much beyond that. To ensure the effective implementation of the FTA, familiarizing the stakeholders (exporters and importers) in simple and plain language about each FTA is essential. To this extent, a cue can be taken from other countries like Australia, Canada, New Zealand, and Singapore, etc. These countries have taken steps to explain their FTAs in a lucid, instructive, and comprehensive manner. They also provide a host of additional information, such as fact sheets, summaries, and illustrative examples.<sup>46</sup> This suggestion by Dr. Seshadri is very pertinent, given the Indian context. India can also emulate such models and provide a step-by-step handholding guide to the stakeholders, which could help in addressing the regular complaints regarding lack of information.<sup>47</sup> To further strengthen the familiarity of the stakeholders with the FTA provisions, industry-government-academic consultative workshops can also be organized, which will help in the development of relevant “practice-oriented material” for the stakeholders and for wider circulation.

#### IV. Conclusion

In light of the reversal of globalization, erosion of multilateralism, and re-emergence of emphasis on self-reliance during the COVID-19 pandemic, the concept of free trade has changed significantly. With international Institutions like the IMF and WTO facing numerous crises<sup>48</sup> and unable to deliver satisfactorily on their mandate, trade and trade policies are increasingly becoming intertwined with strategic and security issues. Trade negotiations are no longer purely related to trade but are aligned with the strategic and security interests of the participating countries.<sup>49</sup> In this context, it is critical for India to reassess the significance and role of FTAs, an instrument from the early globalization period. *Have the previous FTAs delivered for India? What went wrong with India’s FTAs? What can India do to enhance the success rate of its FTAs? What can it learn from the FTA experience of other countries?* These are some of the critical questions that Dr. Seshadri has sought to explore in this book.

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45 *Ibid.*

46 *Ibid.*

47 *Ibid.*

48 Patrick Low, “The WTO in Crisis: Closing the Gap between Conversation and Action or Shutting Down the Conversation?” 21(3) *World Trade Review* 274 (2022).

49 Mona Pinchis-Paulsen, “Let’s Agree to Disagree: A Strategy for Trade Security” 25(4) *Journal of International Economic Law* 527 (2022).



Curating the book on the touchstone of his immense experience and knowledge gained over the years in the area of international trade, Dr. Seshadri has provided a timely, authoritative, meticulously designed and intellectually rich commentary on the subject of Free Trade Agreements. With India currently seeking to expand its FTA network on the backbone of its enhanced domestic manufacturing capability through Atma Nirbhar Bharat and strengthened export capacities, a well-constructed and well-executed plan, not only for FTA expansion but also for ensuring effective implementation, will be vital for India. Toward this end, the recommendations made by the author in the book offer a roadmap that will assist India in successfully navigating the multifarious issues and challenges related to FTAs. Additionally, Dr. Seshadri has also explored the implications of India's evolving role in the global supply chain, by examining how FTAs have influenced manufacturing and service sectors.

The present book is a valuable addition to the prevailing literature on Free Trade Agreements. It offers a comprehensive account of India's past, present and future approach to FTAs that is both technically rich and lucid to understand. The book is well suited for a diverse audience, including students, research scholars, policymakers, analysts, business leaders, entrepreneurs, and government officials. It will not only provide valuable inputs to its readers but can also be used as an authoritative reference material for further research as well as for framing policy options.

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